

Message Text

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ORIGIN L-03

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DRAFTED BY L/M/SCA:HFSHAMWELL:DLS

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NEA/INS: MR. GNEHM

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FM SECSTATE WASHDC

TO AMEMBASSY KATHMANDU

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E.O. 11652: N/A

TAGS: PFOR, NP

SUBJ: NEPALESE LAW ON DIPLOMATIC PRIVILEGES AND
IMMUNITIES (1970)

REF: EMBASSY'S A-113 (SEPT. 12, 1973)

1. EMB REQUESTED DEPT'S VIEWS ON CITED PROVISIONS OF NEPALESE LAW RELATING TO PRIVILEGES AND IMMUNITIES ENJOYED BY DIPLOMATIC REPRESENTATIVES TO NEPAL. EMB EXPRESSED OPINION THAT THE EXEMPTIONS FROM IMMUNITY SPECIFIED IN SECTION 10 OF ACT ARE INCONSISTENT WITH THE OBLIGATIONS ASSUMED BY THE GOVERNMENT OF NEPAL AS A PARTY TO 1961 VIENNA CONVENTION ON DIPLOMATIC RELATIONS.

2. DEPT HAS COMPARED THE TEXT OF SECTIONS 7 AND 10 WITH TEXT OF ARTICLE 31 OF THE VIENNA CONVENTION. ASIDE FROM MINOR DIFFERENCES IN LANGUAGE, DEPT CAN SEE NO SUBSTANTIVE DIFFERENCE UNLESS THE WORD "SUITS" USED IN SECTION 10, PARAGRAPH 1, OF THE NEPALESE LAW APPLIES TO CRIMINAL MATTERS. UNDER THE VIENNA CONVENTION, ARTICLE 31, A DIPLOMAT IS ENTITLED TO FULL IMMUNITY FROM THE CRIMINAL JURISDICTION OF THE RECEIVING STATE. IN U.S. PRACTICE, THE WORD "SUITS" REFERS TO NON-CRIMINAL ACTIONS; THEREFORE,

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THE LIMITATIONS STATED IN PARAGRAPH 1 OF SECTION 10,

SUBPARAGRAPH A, B, AND C, WOULD NOT APPLY TO CRIMINAL MATTERS IF SIMILAR USAGE OF THE WORD "SUITS" IS EMPLOYED

IN THE NEPALESE JUDICIAL SYSTEM.

3. UNLESS THE EMB HAS EXPERIENCED PARTICULAR PROBLEMS WITH RESPECT TO THE ENJOYMENT OF DIPLOMATIC PRIVILEGES AND IMMUNITIES IN NEPAL, IT DOES NOT SEEM NECESSARY TO RAISE THIS MATTER WITH THE APPROPRIATE AUTHORITIES. HOWEVER, DEPT DOES NOT OBJECT TO REQUEST BY THE EMB FOR AN INTERPRETATION OF SECTION 10 OF THE NEPALESE LAW. UNLESS EMB HAS BEEN APPROACHED BY THE GON TO CONFIRM THAT SECTION 10 IS AN ACCURATE STATEMENT OF INTERNATIONAL LAW ON PRIVILEGES AND IMMUNITIES, AS EMBODIED IN THE VIENNA CONVENTION, BY WHICH THE EMB AND STAFF WOULD BE GOVERNED DEPT SEES NO POSSIBILITY OF COMPROMISE OF THE USG POSITION OR AN ADVERSE EFFECT ON USG-GON RELATIONS. RUSH

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